

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

ROY H.,

Claimant,

vs.

NORTH LOS ANGELES COUNTY
REGIONAL CENTER,

Service Agency.

OAH No. L 2004060322

DECISION

On August 13, 2004, Administrative Law Judge Timothy S. Thomas, Office of Administrative Hearings, heard this matter in Van Nuys, California.

Stella Dorian, Fair Hearing Coordinator, represented the North Los Angeles County Regional Center (hereinafter regional center, service agency, or NLACRC).

Roy H. (hereinafter claimant) was represented by his adoptive mother, Juanita B.

The matter was submitted on August 13, 2004.

ISSUES

The issue in this matter is whether the regional center may cease making payments to claimant for day care.

FACTUAL FINDINGS

1. Claimant, who is 16 years of age, is eligible for regional center services due to his cerebral palsy, epilepsy and profound mental retardation. He is non-ambulatory and non-verbal. His father is deceased and his mother was neglectful. His grandparents became the foster parents of claimant and his three siblings in May 2000, and they adopted all four children in November 2003. The grandparents/adoptive parents also had a 10-year-old son of their own living with

them at their home in Palmdale. Now, Juanita B., the grandmother/adoptive mother, is raising all five children on her own following her recent divorce. She is not currently receiving any child support from her ex-husband.

2. Juanita B. worked for many years for the Metropolitan Transit Authority in Los Angeles, first as a bus driver, then as a “schedule checker.” She has endured a number of health problems and surgeries that ultimately resulted in a disability retirement. She now supports herself and five young children on her pension, social security and certain other public benefits. The family receives monthly benefits through the Adoption Assistance Program (AAP), which is a program administered by the Los Angeles County Department of Children and Family Services, designed to provide a financial incentive for prospective parents to adopt children in foster care. The basic rate, based upon the food, clothing and shelter needs of a child of a particular age, is \$597 per month for a child claimant’s age, but is supplemented to further assist families caring for special needs children. The supplement is intended to cover services such as supervision. Thus, claimant receives \$3,963 per month from AAP. Claimant was also receiving In Home Support Services (IHSS) from the County of Los Angeles, until, for reasons not clear to Juanita B., those benefits were terminated.¹

3. Based upon needs and goals identified in the Individual Program Plan (IPP) of October 7, 2002, the regional center has funded respite services (39 hours per month) and day care. The expenses for day care, which was instituted when both grandparents were in the home and employed, have been shared by the grandmother and NLACRC. The regional center agreed to fund its share of day care up to four hours per day when school is in session, and up to 10 hours per day during non-school times. Claimant attends Little Rock High School.

4. Juanita B. now utilizes the day care services funded by NLACRC by hiring individuals to assist with her care for claimant in the family home. Due primarily to bad knees, and compounded by the absence of her husband from the home, Juanita B. is challenged to perform all of the tasks necessary to properly care for claimant, such as lifting him into the bathtub. The grandmother spends \$200 per month for food for claimant, and \$100 per month for clothing. She spends \$1,400 per month on “outside help.” These estimates, which are hers, leave \$2,263 per month for additional day care, supervision and other costs associated with the care of claimant.

5. The regional center reviewed claimant’s need for day care because of the change in circumstances that resulted in his grandmother’s disability retirement, and claimant’s adoption by her. NLACRC determined that the monthly payment from AAP was sufficient to pay for day care and represented a generic resource of the type not to be supplanted by regional center funding.

¹ The regional center representative indicated at the hearing that NLACRC would investigate the IHSS funding and, if appropriate, advocate on claimant’s behalf for a restoration of those benefits.

6. Juanita B. acknowledged that by regional center policy, day care funding is intended to assist working parents, but states that she is “desperate.” She was candid in her testimony that because she can no longer earn a wage by working, she simply needs the money to manage the expenses of raising five children. She would be satisfied if the regional center could assist her in accomplishing the reinstatement of IHSS funds or in finding another source of assistance.

LEGAL CONCLUSIONS

1. The State has accepted a responsibility for persons with developmental disabilities and an obligation to them which it must discharge. (Welf. & Inst. Code § 4501.) Regional centers shall give high priority to the development and expansion of services and supports designed to assist families that are caring for their children at home. This assistance may include day care. (Welf. & Inst. Code § 4685, subd. (c)(1).)

2. Welfare and Institutions Code section 4586, subdivision (c)(6), provides: “When purchasing or providing a voucher for day care services for parents who are caring for children at home, the regional center may pay only the cost of the day care service that exceeds the cost of providing day care services to a child without disabilities. The regional center may pay in excess of this amount when a family can demonstrate a financial need and when doing so will enable the child to remain in the family home.” Although cost comparisons were not made part of this record, claimant requires total care and the cost thereof must necessarily exceed the cost of providing day care for a non-disabled child.

3. However, “Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all members of the general public and is receiving public funds for providing those services.” (Welf. & Inst. Code, § 4648, subd. (a)(8).) In this matter, the County of Los Angeles receives public funds to administer AAP in order to provide adoption assistance to members of the public adopting hard-to-place children. Claimant receives supplemental funds in light of his disability that are intended to meet his special needs, and seeks to continue to receive funds from the regional center for services that another agency has an obligation to pay. Based primarily upon Finding 4, the evidence established that the AAP funds are sufficient to meet claimant’s needs, including special day care, and the service agency is justified in terminating its funding of day care. Regional center, consistent with its representations at the time of this hearing, should provide whatever advocacy or other services are necessary to investigate the appropriateness of a reinstatement of IHSS funding.

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ORDER

The determination of NLACRC to terminate its funding of day care for claimant is affirmed.

NOTICE

This is the final administrative decision. Each party shall be bound by the decision. Either party may appeal the decision to a court of competent jurisdiction within 90 days of the receiving of notice of the final decision.

DATED: August 18, 2004

TIMOTHY S. THOMAS
Administrative Law Judge
Office of Administrative Hearings